

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BECKLEY DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL ACTION NO. 5:15-cr-00172

LEON EUGENE SMITH,

Defendant.

**ORDER**

Pursuant to 28 U.S.C. §636(b) and by consent of the parties, this matter was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for purposes of the Defendant entering a plea of guilty. (Document 23). At the plea hearing held on October 8, 2015, the Defendant voluntarily waived his right to have an Article III Judge preside over his guilty plea, instead proceeding in front of Magistrate Judge VanDervort.


In accordance with 28 U.S.C. § 636(b)(1)(C) and Local Rule of Criminal Procedure 59.4(d), the Magistrate Judge prepared a *Proposed Findings and Recommendation Concerning Plea of Guilty in Felony Case* (PF&R) (Document 30) for this Court's review. Therein, the Magistrate Judge recommends that the Court find that there is a sufficient factual basis for the Defendant's plea of guilty; that his plea was knowing and voluntary; and that he understood the rights he was giving up by pleading guilty. Judge VanDervort further recommends that the Defendant be adjudged guilty of the felony charge contained in the Indictment, and that the Court

accept his plea of guilty conditionally, pending receipt and review of both the PF&R and a Presentence Investigation Report.

Objections to the PF&R were due on October 30, 2015. Neither party has filed objections. Accordingly, following careful review, the Court hereby **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation Concerning Plea of Guilty in Felony Case* (Document 30) and **ORDERS** that the Defendant's plea of guilty be **ACCEPTED**, and that he be **ADJUDGED GUILTY** of the charge contained in the Indictment filed against him.

The Court **DIRECTS** the Clerk to send a copy of this Order to Magistrate Judge R. Clarke VanDervort, to the Defendant and counsel, to the United States Attorney, to the United States Probation Office, and to the Office of the United States Marshal.

ENTER: November 4, 2015

  
IRENE C. BERGER  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF WEST VIRGINIA